

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF PUERTO RICO**

3 **UNITED STATES OF AMERICA,**

4 **Plaintiff,**

5 **v.**

6 **AMARO-RODRIGUEZ, et al.,**

7 **Defendants.**

CRIM. NO. 08-378 (GAG)

8
9 **MEMORANDUM OPINION AND ORDER**

10 Presently before the court is defendant Angel Rosado-Calderon's motion to suppress evidence
11 (Docket No. 104), to which defendants Cristobal Baez-Roman and Angel Ramirez-Vazquez have
12 requested joinder (Docket Nos. 105 & 106). The court granted these requests (Docket Nos. 110 &
13 106) and has considered the motion. For the reasons set forth herein, the motion to suppress evidence
14 (Docket No. 104) is **DENIED** without prejudice.

15 Under Minnesota v. Carter, 525 U.S. 83 (1998), the moving defendants do not have standing
16 to claim the protection of the Fourth Amendment with regard to the search and seizure of the vessel
17 belonging to defendant Gerardo Amaro-Rodriguez. In order to establish that their Fourth
18 Amendment rights were violated, the moving defendants would have to demonstrate that they had
19 an individual, subjective, and legitimate expectation of privacy in Amaro's vessel, including the
20 place where the evidence was seized, see Katz v. United States, 389 U.S. 347, 351 (1967). The
21 expectation of privacy in the home (or vessel) of another will be protected when it is based on a visit
22 which represents "a longstanding social custom that serves functions recognized as valuable by
23 society." Minnesota v. Olson, 495 U.S. 91, 98 (1990). While overnight guests "typif[y] those who
24 may claim the protection of the Fourth Amendment in the home of another," Carter, 525 U.S. at 91
25 (citing Olson, 495 U.S. 91 (1990)), a visit that is primarily commercial, and not social, in nature does
26 not garner the same protection, see Id. (noting that the purely commercial nature of the transaction
27 engaged in by respondents led the court to conclude that they were not entitled to the same protection
28 as the guests in Olson). Defendant Angel Rosado-Calderon stated under penalty of perjury that his

Crim. No. 08-378(GAG)

1 boss's stated purpose for the trip to the Dominican Republic was "to find a business location to
2 establish a branch of his business in the Dominican Republic." (Docket No. 104-2 at 4). On the
3 facts currently before the court, it finds that any search that may have occurred did not violate moving
4 defendants' Fourth Amendment rights. More so, there is no dispute that the narcotics inside the
5 vessel were found in an extremely shrouded compartment of the vessel, which was not located in
6 any guest room. See Government's Affidavit, Docket No. 1-2 at 2-3. None of these defendants
7 claims a possessory or privacy interest in said compartment. If any of the defendants wants this
8 court to reconsider its determination, they must demonstrate standing.

9 **SO ORDERED.**

10 In San Juan, Puerto Rico this 25th day of June, 2009.

11 *S/ Gustavo A. Gelpi*

12 GUSTAVO A. GELPI
13 United States District Judge
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